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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,942	08/27/2003	Arthur Wong	CM2656M	5927

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EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,942

Applicant(s)

WONG ET AL.

Examiner

Norca L. Torres-Velazquez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16-32 and 35-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-32 and 35-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. The provisional obviousness-type double patenting rejections of claims 33-34 over U.S. Patent No. 6,383,431 has been withdrawn in view of Applicant's amendment canceling claims 33-34.

2. The terminal disclaimer filed on 7/27/2005 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of Application No. 10/712,239 has been reviewed and is accepted. The terminal disclaimer has been recorded.

3. Applicant's arguments filed December 06, 2005 have been fully considered but they are not persuasive.

a. Applicants have amended independent claim 1 to further claims that the substrate has caliper of no less than about 0.7 mm and wherein the substrate exhibits caliper rebound of greater than about 65%. Applicants argue that none of the references cited by the previous office action either teach or suggest a nonwoven web as presently claimed.

It is noted herein that the primary reference of DOBRIN '431 teaches that the preferred nonwoven, fibrous web material can have an initial thickness of from about 5 mils to about 40 mils [0.1270-1.0160 mm]. (Refer to Col. 7, lines 29-30) Further, the reference teaches that the modified web thickness is from about 85% to about 400% of the initial web thickness (caliper). (Refer to Col. 3, lines 47-48) Since the new limitation requires no less than about 0.7 mm (i.e. equal or more than 0.7 mm), it is the Examiner's interpretation that the teachings of DOBRIN '431 meet the claimed limitation.

With regards to the primary reference of WALTON et al. '280, it is noted the reference teaches that the thickness of the treated fabric may range up to 0.030 inches. [0.762 mm] (Refer to Col. 9, lines 8-11) Such teaching meets the claimed caliper of no less than about 0.7 mm.

With regards to the claimed caliper rebound, it is the Examiner's position that such property would be inherent to the material taught by the prior art of record.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-13, 16-32 and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over DOBRIN et al. (US 6,383,431 B1) in view of IKEDA et al. (US 5,633,772).

DOBRIN et al. discloses a method for modifying the physical characteristics of a nonwoven fibrous web which involves passing the web between at least one pair of interengaged rolls to incrementally stretch the web, and then withdrawing the incrementally stretched web from between the rolls under tension. (Abstract) The reference teaches a nonwoven material with a deformation pattern in the form of ridges and grooves defining an array of spaced, diamond-shaped elements 100 with intervening undeformed areas 102. (Col. 12, lines 2-24; Figures 10-11) Figures 10 and 11 show the patterns of the forming rolls that are transferred into the nonwoven web. It is the Examiner's interpretation that that first and second regions of the present invention would be provided by the Dobrin reference. (Refer to Figures) With regards

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to the basis weight and the structure of the materials, the reference shows in their examples nonwoven materials with basis weight ranging from 27-33 gsm and it teaches structures that comprises carded webs, spunbonded webs, SMS, among others. (Refer to Table I and Cols. 14-18) DOBRIN '431 teaches that the preferred nonwoven, fibrous web material can have an initial thickness of from about 5 mils to about 40 mils [0.1270-1.0160 mm]. (Refer to Col. 7, lines 29-30) Further, the reference teaches that the modified web thickness is from about 85% to about 400% of the initial web thickness (caliper). (Refer to Col. 3, lines 47-48)

However, the reference is silent to the density of the nonwoven substrate.

IKEDA et al. teaches the use of a sheet-like fibrous member as a cleaning member used for cleaning a magnetic disk and teaches that the cleaning member has a density of no more than 0.10 g/cm^3 . (Abstract) It would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide the nonwoven substrate of Dobrin with a density of no more than about 0.15 g/cm^3 motivated by the desire of producing a material suitable as a cleaning sheet as taught by IKEDA et al. above.

Although DOBRIN et al. and IKEDA et al. does not explicitly teach the claimed caliper rebound, it is reasonable to presume that it is inherent to the web of DOBRIN et al. in combination with IKEDA et al. Support for said presumption is found in the use of like materials (i.e. nonwoven material incrementally stretched). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of a caliper rebound of greater than about 65% would obviously have been present one the nonwoven material from the combination of DOBRIN et al. and IKEDA is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977) as to the providing of this rejection made above

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under 35 USC 102. Reliance upon inherency is not improper even though rejection is based on Section 103 instead of Section 102. *In re Skoner, et al.* (CCPA) 186 USPQ 80

6. Claims 1, 13 and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over WALTON et al. (US 3,810,280) in view of IKEDA et al. (US 5,633,772).

WALTON et al. relates to longitudinal treatment to produce desired effects in thin materials such as woven, knitted and nonwoven fabrics, yarns, among others. (Col. 1, lines 5-12; Abstract) A very specific object of the invention is to provide a method and means for improving the cover and bulk of textile materials. (Col. 1, lines 64-66) The invention concerns machines having opposed members for contacting respective sides of the material, in the case of uniform treatment of webs of the members normally being uniform across the width of the traveling web. On side of the material is located a drive member providing a movable drive surface and on the other side there is a retarder member spaced from the movable drive surface and having a retarding surface to engage the exposed face of and retard the material while the material is exposed to the drive surface. The reference teaches that in any forms of the invention the retarding portions may comprise projections. (Col. 2, lines 1-33) For treating compressible materials, a drive surface comprising a surface having ridges and grooves may be used. (Col. 2, lines 56-58) For treating textiles, the retarding surface may be arranged to nap the surface of the material in the process of retarding it. The method of the invention is applicable to bulking or softening a length of fibrous material by providing the driving surface material with material gripping projections. (Refer to Col. 4, lines 47-68) The reference teaches the use of the retarding surface to nap the fabric by dislodging individual threads from their bundles. The reference teaches that where it is desired mainly to bulk or thicken a textile, and not to shorten it,

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advantageously the effective length of the retarding surface is kept short. When the material emerges from under a short extent of retarder immediately “blooms” into a bulky form. (Refer to Col. 8, lines 56 through Col. 9, lines 1-25) the reference teaches that the thickness of the treated fabric may range up to 0.030 inches. [0.762 mm] (Refer to Col. 9, lines 8-11) Such teaching meets the claimed caliper of no less than about 0.7 mm.

However, the reference is silent to the density of the nonwoven substrate.

IKEDA et al. teaches the use of a sheet-like fibrous member as a cleaning member used for cleaning a magnetic disk and teaches that the cleaning member has a density of no more than 0.10 g/cm³. (Abstract) It would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide the nonwoven substrate of WALTON with a density of no more than about 0.15 g/cm³ motivated by the desire of producing a material suitable as a cleaning sheet as taught by IKEDA et al. above.

Although WALTON et al. and IKEDA et al. does not explicitly teach the claimed caliper rebound, it is reasonable to presume that it is inherent to the web of WALTON et al. in combination with IKEDA et al. Support for said presumption is found in the use of like materials (i.e. nonwoven material that is treated by a retarder). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of a caliper rebound of greater than about 65% would obviously have been present one the nonwoven material from the combination of WALTON et al. and IKEDA is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977) as to the providing of this rejection made above under 35 USC 102. Reliance upon inherency is not improper even though rejection is based on Section 103 instead of Section 102. *In re Skoner, et al.* (CCPA) 186 USPQ 80.

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7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Norca L. Torres-Velazquez
Primary Examiner
Art Unit 1771

February 16, 2006